

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12-cv-530-FDW  
(3:02-cr-100-FDW-1)**

<b>CARLTON DONELL BURRIS,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b><u>ORDER</u></b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

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UPON MOTION of the Petitioner-Defendant Carlton Donell Burris (Criminal Case No. 3:02-cr-100-FDW-1) with consent of Respondent United States of America, (3:12-cv-530, Doc. No. 4), the Court hereby VACATES the convictions and sentence of Petitioner-Defendant for two counts of violating 18 U.S.C. § 922(g)(1), dated November 25, 2002.(3:02-cr-100, Doc. No. 13). Based upon the United States' express waiver of the statute of limitations and United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc), the Court finds Petitioner actually innocent of Counts One and Two of his Bill of Indictment.

THEREFORE, the Petitioner-Defendant's convictions and sentence are hereby VACATED and he is ordered released from the Federal Bureau of Prisons, and, Petitioner's motion for relief is GRANTED. (3:12-cv-530, Doc. No. 1).

WHEREFORE, the Clerk of Court is directed to certify copies of this Order to the United States Marshal's Service and the United States Bureau of Prisons, and to close this civil case.

IT IS SO ORDERED.

Signed: December 21, 2012

  
Frank D. Whitney  
Frank D. Whitney  
United States District Judge  
